



**US Army Corps
of Engineers**

Omaha District

PUBLIC NOTICE

Application No: 2004-90-090

Applicant: ExxonMobil Refining and Supply Co.

Waterway: Yellowstone River

Issue Date: February 27, 2004

Expiration Date: March 27, 2004

30 DAY NOTICE

Helena Regulatory Office

10 West 15th Street, Suite 2200

Helena, Montana 59626

**JOINT PUBLIC NOTICE
FOR PERMIT APPLICATION SUBMITTED TO
U.S. ARMY CORPS OF ENGINEERS
AND
MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY**

Under authority of the Secretary of the Army, the District Engineer, U.S. Army Corps of Engineers, Omaha, Nebraska, is considering an application from ExxonMobil Refining and Supply Company (PO Box 1163, Billings Montana 59103) for approval of plans and issuance of a permit.

The applicant is requesting a renewal of authorization to dredge gravel and silt from the inlet channel and settling basin to the ExxonMobil Billings Refinery's Yellowstone River water pump house. The project is located at 700 ExxonMobil Road, Billings, Montana 59103, in NW 1/4, NE 1/4, SW 1/4 of Section 24, Township 1 North, Range 26 East, Yellowstone County, Montana. This activity was authorized on July 1, 1994 under Department of the Army Permit No. 199190225 and expired on July 1, 1999. On June 21, 1999, the 1994 permit was amended extending the expiration date to July 1, 2002. On June 6, 2002, the 1994 was amended for the second time and extended to July 1, 2004. The applicant is requesting authorization to continue annual maintenance dredging around the pump house to allow them to continue to obtain their vested water rights for the safe and reliable operation of the refinery.

The purpose of this notice is to receive comments to assist the Corps in deciding whether to permit all or a portion of the proposed project, and if permitted, what special conditions may be applicable.

STATED PURPOSE: The applicant's stated project purpose is to maintain the inlet channel to insure an adequate supply of water to the refinery for cooling and for steam production.

PROPOSED CONSTRUCTION DATE: June 6- August 31st on annual basis.

DIMENSIONS OF THE PROJECT: This project will extend 50-125' into the Yellowstone River, and approximately 125' up and downstream of the river water pump house. In addition, 500-1500 cubic feet of sediment will be removed from the small river water pump house settling basin. (See Attachment 1)

VEGETATION: Between 500 and 1500 sq ft of vegetation growing below the high water mark will be removed during the dredging. This vegetation is composed primarily of weeds and grasses.

MATERIALS: Between 2000 and 10,000 cubic yards of sediment will be removed during the execution of this project.

EQUIPMENT: A portable hydraulic cutterhead suction dredge equipped with 12" intake line will be used in the river. The dredge is capable of pumping 275 cubic yards per hour (5,000-7,000 gallons per minute). A track backhoe, dump truck, front-end loader and possibly a crane equipped with a clamshell bucket will be used in the settling basin area.

DREDGING PROCEDURE: Materials removed by the suction dredge will be collected settling ponds above the floodplain and managed so that storm water run-off is not allowed to drain back into the river. Materials removed by the excavator will also be piled above the floodplain. A site plan is shown in Attachment 1 identifying the dredge area, settling basin, settling ponds for dredged material, and clarified return lines from the settling ponds.

TENTATIVE LIST OF SPECIAL CONDITIONS

1. That close coordination will be maintained with downstream water users, advising them of any water quality changes to be caused by the dredging operation.
2. That all dredged or excavated materials will be placed on an upland site above the ordinary high water line in a confined area, not classified as a wetland, to prevent the return of such materials to the waterway.
3. That the disposal area, method of disposal, or method of dredging will not be changed without prior written approval of the District Engineer.
4. That when the District Engineer has been notified by a fishery agency that a dredging activity is adversely affecting fish or wildlife resources or the harvest thereof and the District Engineer subsequently directs remedial measures, the permittee will comply with such directions as may be received to suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect as required.
5. That dredging shall be conducted only during the June 6- August 30th time period.
6. That no suitable nest or perch trees shall be removed or disturbed by the dredging operation.
7. That all work in the waterway be performed in such a manner so as to minimize increase in suspended solids and turbidity, which may degrade water quality and damage aquatic life outside the immediate area of operation.

8. That dredging operations shall commence in that portion the inlet channel farthest from the river and shall proceed towards the mouth of the channel.
9. That deposition of excavated materials on shore and all earthwork operations on shore will be carried out in such a way that sediment runoff and soil erosion to the water are controlled.
10. That the clearing of vegetation will be limited to that which is absolutely necessary for construction of the project.
11. That the use of machinery in the waterway be kept to a minimum.
12. That care will be taken to prevent any petroleum products, chemicals, or other deleterious materials from entering the water.
13. That the U.S. Environmental Protection Agency be notified when decisions are made to activate the dredge or excavator to allow EPA staff the opportunity to observe the activity.

Drawings showing location and the extent of the project are attached to this notice.

401 Water Quality Certification: The Montana Department of Environmental Quality, 1520 East 6th Avenue, PO Box 200901, Helena, Montana 59620-0901, will review the proposed project with the intent to certify in accordance with the provisions of Section 401 of the Clean Water Act. The certification, if issued, will express the State's opinion that the operations undertaken by the applicant will not result in a violation of applicable water quality standards. The Montana Department of Environmental Quality hereby incorporates this public notice as its own public notice and procedures by reference thereto.

Cultural Resources: The Corps of Engineers, Omaha District will comply with the National Historic Preservation Act of 1966, as amended. We have checked the National Register of Historic Places and its current supplements, and there are no known National Register sites in the vicinity; however, we will evaluate input by the State Historic Preservation Office and the public in response to this public notice, and we may conduct or require a reconnaissance survey of the permit area to check for unknown historic or prehistoric properties, if warranted.

Threatened / Endangered Species: In compliance with the Endangered Species Act, a preliminary determination has been made that the described work will not affect species designated as threatened or endangered, or adversely affect critical habitat. In order to complete our evaluation of this activity, comments are solicited from the U.S. Fish and Wildlife Service and other interested agencies and individuals.

Evaluation Factors: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposed activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are

conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of work on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act (40 C.F.R.; Part 230).

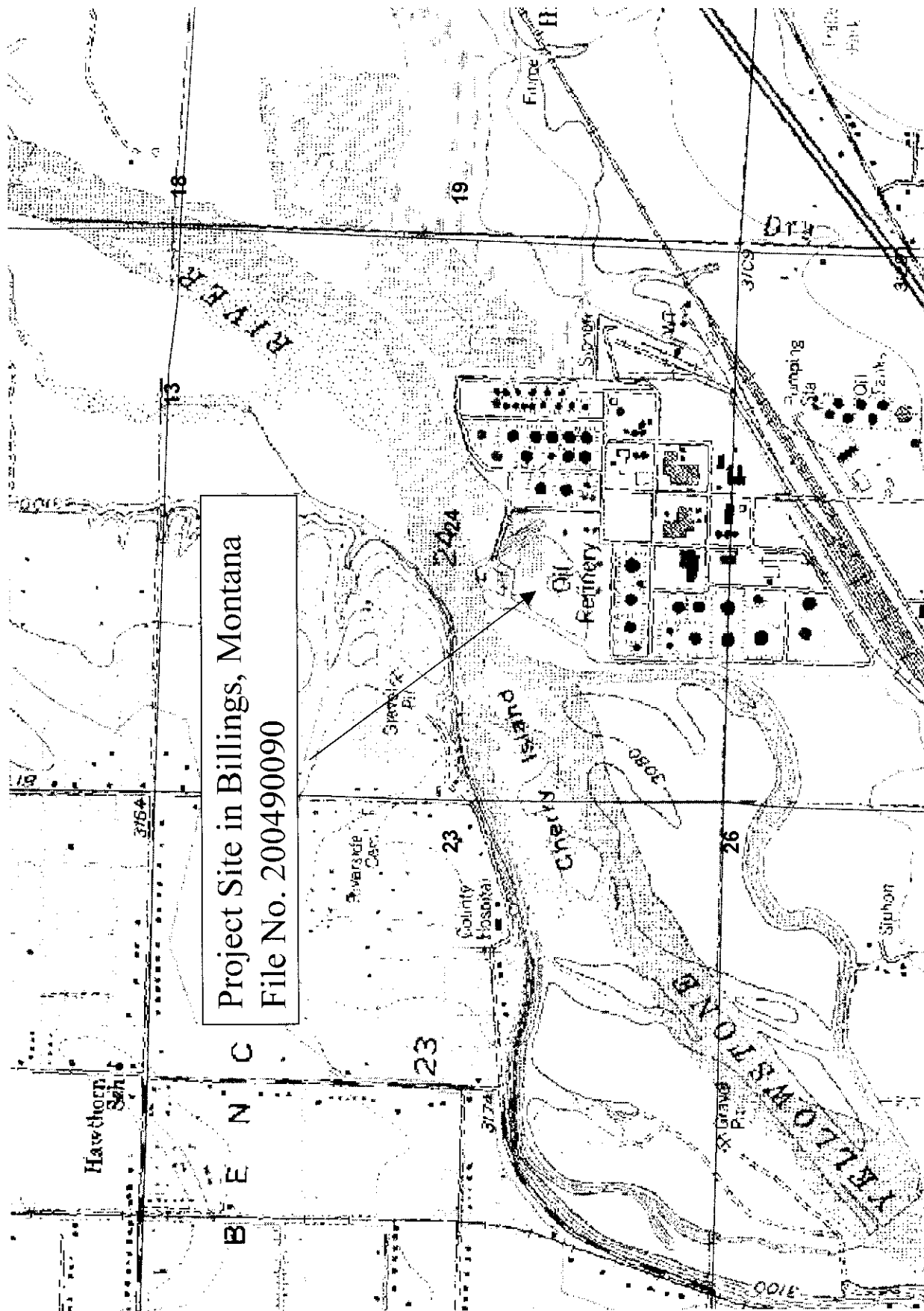
Comments: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this constructed and proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. All public notice comments will be considered public information and will be subject to review by the applicant.

Any person may request, in writing and within the comment period specified in this notice, that a public hearing be held for the purpose of gathering additional information. Requests for public hearings must be identified as such and shall state specifically the reasons for holding a public hearing and what additional information would be obtained. The request must be submitted to the U.S. Army Corps of Engineers, 10 West 15th Street, Helena, Montana 59626. If it is decided that additional information is required and that a public hearing should be held, interested parties will be notified of the date, time and location.

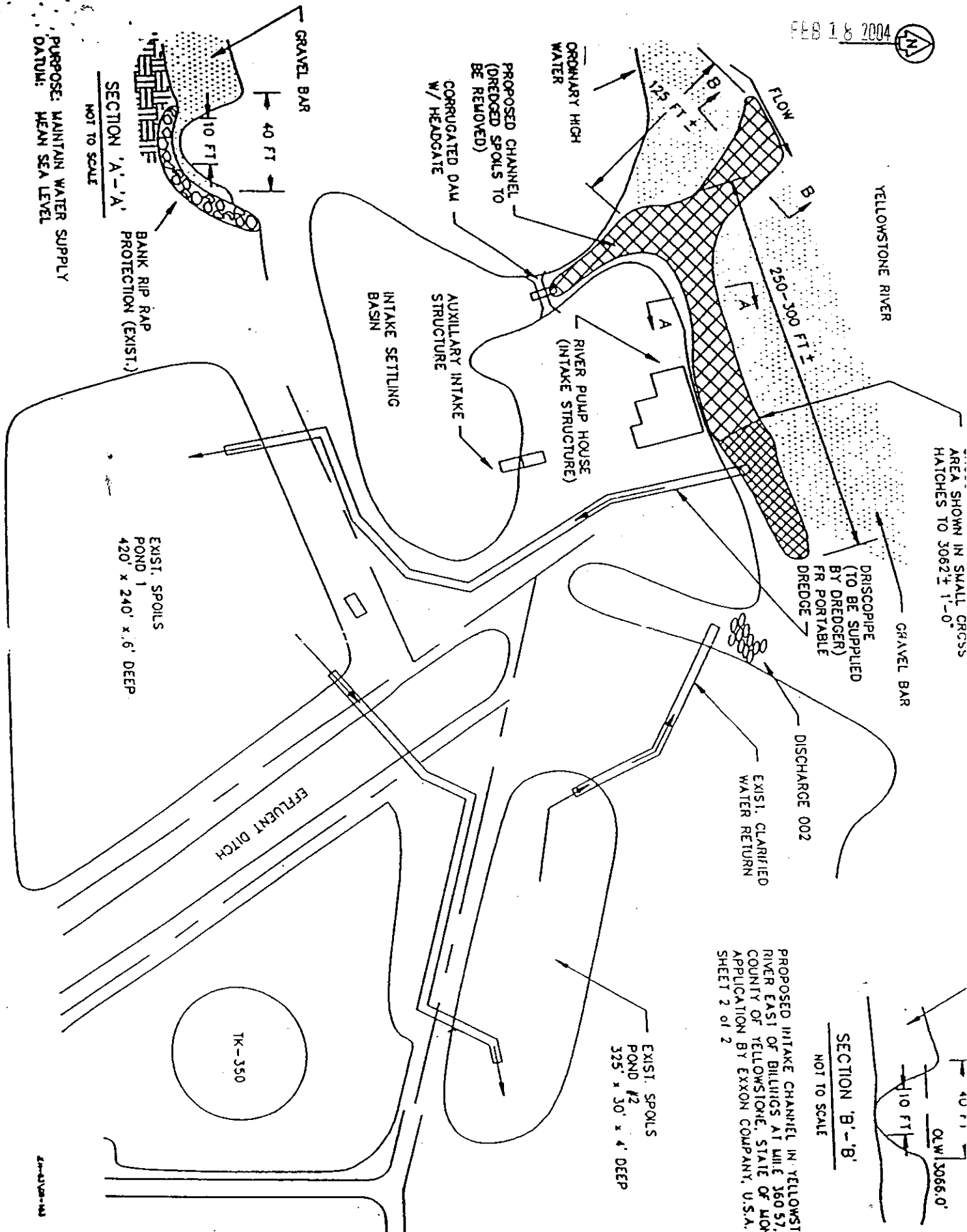
Any interested party (particularly officials of any town, city, county, state, or Federal agency; Indian tribe; or local association whose interests may be affected by the work) is invited to submit to this office written facts, arguments, or objections on or before the expiration date listed on the front of this notice. Any agency or individual having an objection to the work should specifically identify it as an objection with clear and specific reasons. Comments, both favorable and unfavorable, will be accepted, made a part of the record and will receive full consideration in subsequent actions on this application. All replies to the public notice should be addressed to the **U.S. Army Corps of Engineers, 10 West 15th Street, Helena, Montana 59626. Please reference the Application Number found on the first page of this notice in any correspondence.** Peter Schendel, Project Manager, telephone number (406) 441-1364, may be contacted for additional information. You may also fax your comments to (406) 441-1380 or email to Peter.L.Schendel@usace.army.mil.

Comments postmarked after the expiration date of this public notice will not be considered.

Statutory Authorities: A permit, if issued, will be under the provisions of Section 10 of the Rivers & Harbors Act of 1899.



FEB 18 2004



PURPOSE: MAINTAIN WATER SUPPLY
DATTUM: MEAN SEA LEVEL

SECTION 'A'-A'
NOT TO SCALE

SECTION 'B'-B'
NOT TO SCALE

PROPOSED INTAKE CHANNEL IN YELLOWSTONE RIVER EAST OF BILLINGS AT MILE 360.57, COUNTY OF YELLOWSTONE, STATE OF MONTANA APPLICATION BY EXXON COMPANY, U.S.A. SHEET 2 of 2

ATTACHMENT 1